



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

January 22, 2023

Michael A. Jackson – mikej8176@gmail.com
4211 Lowell Drive
Pikesville, MD 21208

RE: Petitions for Variance
Case No. 2023-0193-A
Property: 4211 Lowell Drive

Dear Mr. Jackson:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink that reads "Maureen E. Murphy". The signature is written in a cursive style.

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dml

Enclosure

c: Devonne Hannah- 2debo@yahoo.com
Dr. Deborah Carter- dcarter348@aol.com
Gregory Clay- c321@netzero.com

IN RE: PETITION FOR VARIANCE

(4211 Lowell Drive)

3rd Election District

2nd Council District

Michael Anthony Jackson

Legal Owner

Petitioner

*

BEFORE THE

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OFFICE OF ADMINISTRATIVE

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HEARINGS OF

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BALTIMORE COUNTY

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CASE NO. 2023-0193-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Michael Anthony Jackson (“Petitioner”) for property located at 4211 Lowell Drive, Pikesville (“Property”). Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”), §400.1 to approve an accessory structure (pergola) in front yard in lieu of the required rear yard only.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioner appeared at the hearing in support of the Petition, *pro se*. Dr. Deborah Carter, 4217 Lowell Dr., testified in opposition to the Petition. Devonne Hannah, 4210 Lowell Dr., and Gregory Clay and Deborah Clay, 4208 Lowell Dr. appeared and testified in support of the Petition.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Department of Environmental Protection and Sustainability (“DEPS”), and Development Plans Review (“DPR”), which agencies did not oppose the requested relief.

This Case was filed as a result of a Code Violation complaint in regard to this Property on July 25, 2023. Petitioner constructed and/or installed a pergola with lattice fencing in his front yard on the left side of his front steps without a permit. (Pet. Ex. 2). As shown in the street view photographs, a grill is located inside the pergola area. The street view photographs of Lowell Dr.

do not show any structures in the front yards of any other properties. According to the Site Plan, the pergola measures 192 sf (12 ft. x 16 ft.), and is 8 ft. tall. (Pet. Ex. 1). It sits 2.5 ft. off the side yard property line. There is a tall hedge row between the Property and 4209 Lowell Dr. Petitioner testified that he purchased the pergola from Sam's Club. It has galvanized steel posts holding it up. The entire structure can be moved; it does not have footers. Petitioner and his family use the area as a gathering place and eating area for family and friends.

The Property is 6,000 sf, and is improved with a 1,200 sf, 2-story home constructed in 1948. The Property was created as Lot 83 on the Plat of Colonial Village as recorded in Land Records of Baltimore County on May 31, 1940 (CWB, Jr., Plat Book 12, page 67). The Property is zoned Density Residential (DR 5.5). Petitioner also provided photographs of the rear yard which is improved with a shed and several boxed gardens. (Pet. Ex. 3A-3C). Nearly the entire rear yard is paved with concrete and/or pavers; it is used for parking vehicles and trailers. The rear yard is access via a 10 ft. alley. Petitioner testified that due to space limitations and the use of the rear yard for parking, there is no space for the pergola.

Petitioner provided letters of support from immediately adjoining property owners at 4209 Lowell Drive and 4213 Lowell Drive. Additionally, Ms. Hannah and Mr. and Mrs. Clay testified in support of the pergola remaining in the front yard and remarked that it adds to the aesthetics and increases the market value of the homes in the neighborhood. The letters of support read that, prior to the Petitioner's purchase of the Property, the home had been vacant for 15 years, with windows and front door boarded up, forcing the property owners in the neighborhood to call Code Enforcement just to have the grass cut. Petitioner has renovated the home and Property.

Dr. Deborah Carter, 4217 Lowell Dr., testified in opposition and also submitted a written statement in opposition. In Dr. Carter's opinion, the location of the pergola in the front yard

devalues the properties in the neighborhood. She highlighted that no other homes in the neighborhood have structures in the front yards.

A Variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The Property is unique due the fact that it has a larger home which consumes more of the rear yard than neighboring homes. The use of the rear yard for parking of vehicles limits the area available for the 192 sf pergola. I note that the Property does not have a driveway to park vehicles which only leaves on-street parking. Additionally, if the pergola were moved to the rear yard, Petitioner may also need to comply with BCZR, §400.2. which requires accessory structures to be set back not less than 15 feet from the center line of any alley on which the lot abuts. With the boxed gardens and location of shed in the rear yard, given the pergola's use for entertainment of family and friends, if it were moved to the rear yard, gatherings would take place next to vehicles and trailers, which for practical reasons, defeats its purpose.

The pergola does *not* have footers and is movable. In my view, it resembles more of a garden trellis than a gazebo. It is not uncommon to see such garden trellises at the front sidewalk entrance of residential properties, particular with homes of this vintage era. The pergola location does meet the side yard setback of 2.5 ft. and the height limitation of less than 15 ft. (8 ft.). While the pergola has a barbeque grill under its roof enabling cookouts to take place, if the pergola were removed, Petitioner could continue to use his barbeque grill for cookouts in the front yard.

To prove practical difficulty for an area Variance, the Petitioner must produce evidence to allow the following questions to be answered affirmatively:

1. That compliance with the strict letter of the restriction would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
2. Whether the grant of the variance applied for would do substantial justice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 39 (1974).

Applying the holding of *Anderson* to the facts here, I find that compliance with the strict letter of the rear-yard-only requirement for this pergola, would unreasonably prevent the Petitioner from using the Property for the permitted purpose of entertaining family and friends, and would render conformity with such restrictions unnecessarily burdensome given the lack of useable space in the rear yard. I further find that the grant of the Variance here would do substantial justice to Petitioner, as well as adjacent and nearby property owners in the neighborhood, as the support for the pergola is considerable. Lastly, I find that relief can be granted in such fashion that the spirit of the BCZR, §400.1 will be observed, and public safety and welfare secured. I further find that the requested Variance relief can be granted in strict harmony with the spirit and intent of the BCZR and without injury to the health, safety or general welfare, particularly in light of the support for the pergola.

THEREFORE, IT IS ORDERED, this 22nd day of **January, 2024**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from BCZR, §400.1 to approve an accessory structure (pergola) in front yard in lieu of the required rear yard only respectively is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner shall comply with the DOP ZAC comment, a copy of which is attached hereto and incorporated herein.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM/dlm



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 4211 Lowell Dr Pikesville Md. 21008 Currently Zoned DR 55
Deed Reference 26892 , 00669 10 Digit Tax Account # 0319000500
Owner(s) Printed Name(s) Michael Anthony Jackson

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ☐ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ a **Variance** from Section(s)

BCZR 400.1 to approve an accessory structure (pergola) in front yard in lieu of the required rear yard only

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

Property is to be posted and advertised as prescribed by the zoning regulations.

I/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Case Number 2023-0153-A Filing Date 9/20/23 Do Not Schedule Dates _____ Reviewer SK

Legal Owners (Petitioners):

Michael Anthony Jackson

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address City State

Zip Code Telephone #'s (Cell and Home) Email Address

Representative to be contacted:

Michael Jackson

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Property Description

Zoning property description

Michael Anthony Jackson

4211 Lowell Dr Pikesville MD. 21208.

Beginning at a point on the east side of Lowell Drive which is 50' wide and 425' east of the nearest intersection at Deerfield Road which is 48' wide

Being lot # 83, block # ,section # in the subdivision Colonial Village as recorded in Baltimore County Plat Book #0012/0066, Folio # , containing 6000 sqft. Located in the 03 election district and 002 council district.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/ neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.*

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2023-0193-A
Property Address: 4211 Lowell Dr Pikesville Md 21208
Legal Owners (Petitioners): Michael Anthony Jackson
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Michael Jackson
Address: 4211 Lowell Dr
Pikesville Md 21208

Telephone Number: 410 916 2360

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Revised 3/2022

Subtotal

\$75.00

Total Taxes

\$0.00

Total

\$ 75 00

PAYMENT ID: QMVARKJJJDYF2

Cashier: Tyler C.

[Show Details](#)

DATE

August 28, 2023

4:18 pm

VISA CREDIT

VISA

0697

[View the Privacy Policies for
Clover](#)

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 10/2/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-0193-A

INFORMATION:

Property Address: 4211 Lowell Drive
Petitioner: Michael A. Jackson
Zoning: DR 5.5
Requested Action: Variance

The Department of Planning has reviewed the petition for the following:

Variance -

1. From Section 400.1 of the Baltimore County Zoning Regulations to approve an accessory structure (pergola) in the front yard in lieu of the required rear yard.

The proposed site is a .137 acre property zoned DR 5.5. It is surrounded by predominantly residential uses. The site has no previous zoning case history and is not in any historic district.

The existing land use is currently residential with a single family detached dwelling on the site. The requested relief for location of an accessory structure in the front yard in lieu of the rear yard, as said in the above request, does not create any encroachments onto the sidewalk or the public right-of-way. It is understood that the variance request was driven by a code violation (CB2300442). The accessory structure is currently existing and meets all the setback regulations. The accessory structure is 191"L x 144"W x 98"H and is made of galvanized steel and Textilene. The structure compliments the principal structure and the character of the neighborhood. The applicant indicates that the neighbors in the immediate area are not opposed to the accessory structure and its location.

The Department has no objections in granting the relief conditioned upon the following:

- 1) Comply with any landscaping guidelines required by the Baltimore County Landscape Architect.
- 2) The plan conforms to all other bulk and setback regulations set forth in the Baltimore County Zoning Regulations for D.R. 5.5 zoned property and
- 3) The plan meets all additional conditions as required by the Administrative Law Judge.

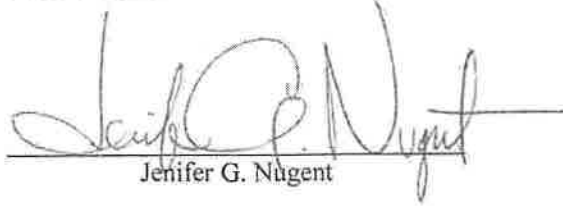
For further information concerning the matters stated herein, please contact Brett M. Williams at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

Michael Jackson
Alex Laham, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 12/13/2023

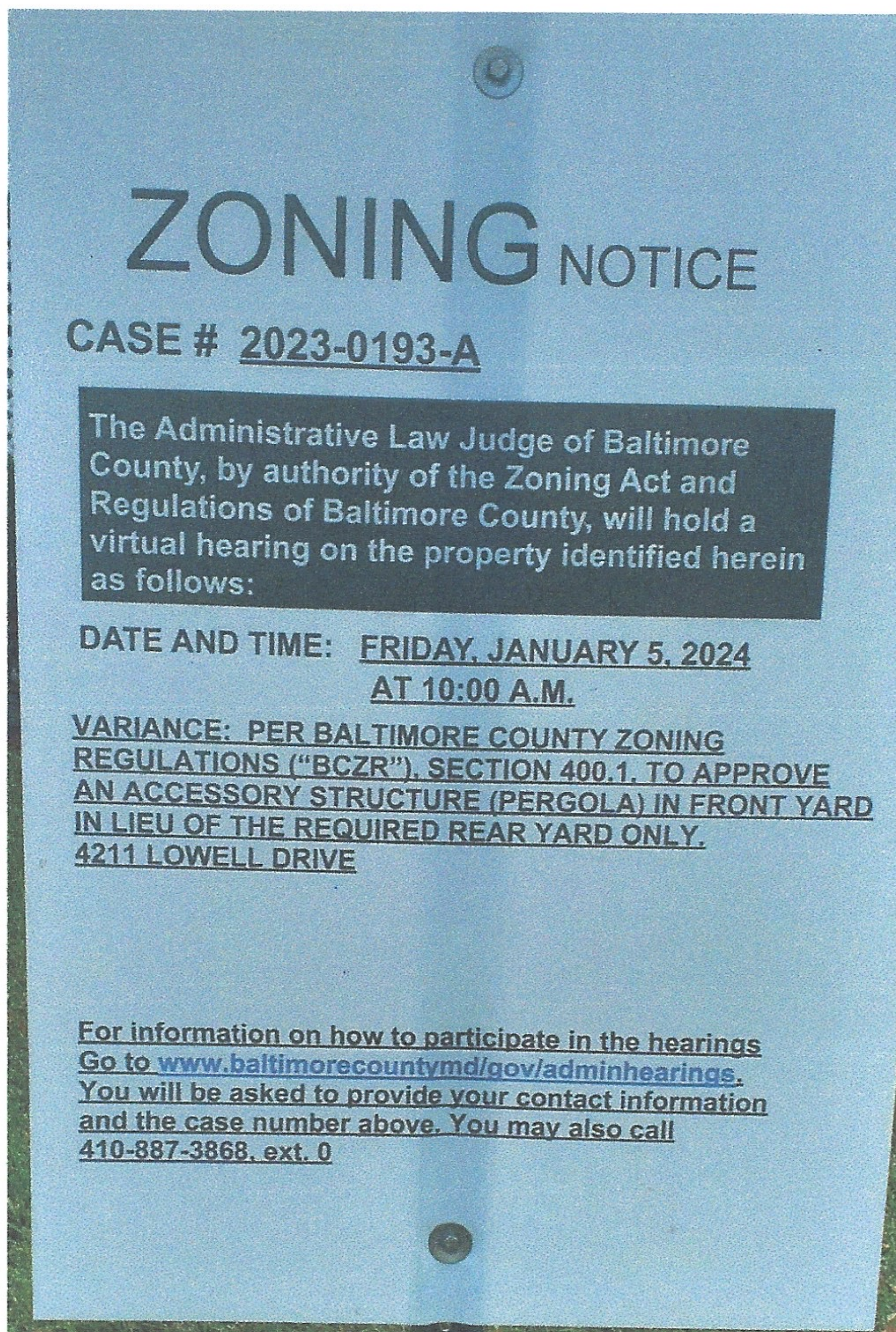
Case Number: 2023-0193-A

Petitioner / Developer: MICHAEL JACKSON

Date of Hearing: JANUARY 5, 2024

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
4211 LOWELL DRIVE

The sign(s) were posted on: DECEMBER 13, 2023



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, MD 21030
(City, State, Zip of Sign Poster)

410-666-5366
(Telephone Number of Sign Poster)

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: September 28, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0193-A
Address: 4211 Lowell Dr.
Legal Owner: Michael Anthony Jackson

Zoning Advisory Committee Meeting of October 2, 2023.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Additional Comments:

Reviewer: Earl D. Wrenn

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 10/2/2023

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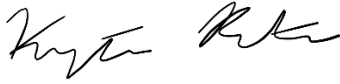
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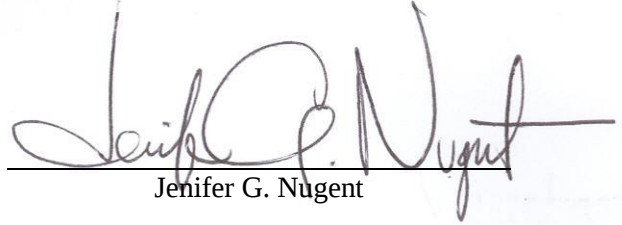
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Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 03 Account Number - 0319000500

Owner Information

Owner Name: JACKSON MICHAEL ANTHONY Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 4211 LOWELL DR Deed Reference: /26892/ 00669
BALTIMORE MD 21208-6028

Location & Structure Information

Premises Address: 4211 LOWELL DR Legal Description: 4211 LOWELL DR
BALTIMORE 21208-6028 COLONIAL VILLAGE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0078 0015 0467 3070100.04 0000 83 2023 Plat Ref: 0012/ 0066

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1948	2,552 SF	500 SF	6,000 SF	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2	YES	STANDARD UNIT	1/2 BRICK FRAME/4 SIDING	2 full/ 2 half			

Value Information

	Base Value	Value As of 01/01/2023	Phase-in Assessments As of 07/01/2023	As of 07/01/2024
Land:	59,400	59,400		
Improvements	214,400	242,900		
Total:	273,800	302,300	283,300	292,800
Preferential Land:	0	0		

Transfer Information

Seller: SANDS DOUGLAS H Date: 04/15/2008 Price: \$50,000
Type: NON-ARMS LENGTH OTHER Deed1: /26892/ 00669 Deed2:

Seller: Date: Price:
Type: Deed1: Deed2:

Seller: Date: Price:
Type: Deed1: Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2023	07/01/2024
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: Approved 08/20/2014

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023-01-31-4

Menu Save Reset Cancel Help

Record Detail * (This section is required.)

Case Number	Record Type	Opened Date
CB2300442	Enforcement/Code Compliance/Construction/Building	07/20/2023

Detailed Description

Erecting some type of structure in the front yard without permits.

[check spelling](#)

Short Description	Channel Reported	CitySourced #
	Phone	

Address (This section is not required.)

Search Reset Clear Get Parcel & Owner Address Locator

Street #	Fraction	Direction	Street Name	Street Type	Suffix	Unit Type	Unit #
4211	-Select	-Select	LOWELL	DR	-Se	-Select-	
City	State	Zip Code					
PIKESVILLE	MD	21208					

Location Description and Nearest Cross Street

[check spelling](#)

Facility ID	Firebox	Police Reporting Area
	002-30	041630

ADC Map

4697F2

X Coordinate	Y Coordinate	Primary
-76.71678589	39.3626461	Yes

Parcel (This section is not required.)

Search Reset Clear Get Address & Owner

Election Dist	Council Dist	Deed	Reference	GIS Parcel ID *	
3	2	26892	0669	45888	
Map	Grid	Parcel	Section	Block	Lot
0078	0015	0467			83
Tax Account #	Plat	Reference			
0319000500	0000012	0066			
Year Built	Land Area	Unit			
1948	6000	S			
Land Value	Improvement Value	Census Block			
84000	91580	4034024002			
Primary					
Yes					

Owner (This section is not required.)

Search Reset Clear

Owner Full Name *

JACKSON MICHAEL ANTHONY

Address Line 1 *

4211 LOWELL DR

Address Line 2

City	State	Zip Code
BALTIMORE	MD	21208-6028

Primary Phone

E-mail

Primary *

Yes

Complainant * (This section is required.)

Search As Owner As Contact

Type

Complainant

Primary

Yes

First Name	Middle Name	Last Name
Deborah		Carter
Organization Name		
Address Line 1		
4217 Lowell Dr		
Address Line 2		
City	State	Zip Code
Baltimore	MD	21208
Primary Phone	Secondary Phone	Other Phone
410-363-3623		
E-mail		

Single Entry Contact Form

Professionals *(This section is not required.)*

Search	Reset	Clear
License #	First Name	Middle Name Last Name
License Type *	Business Name	
-Select-	▼	
Primary	Address Line 1	
Yes	▼	
	Address Line 2	
	City	State ZIP Code
	Primary Phone	Secondary Phone Fax
	E-mail	

Custom Fields

INSPECTION INFORMATION

Hearing Date	Hearing Time
	09:00
	AM ▼
Recommend Fine by Inspector	Compliance Date
	08/31/2023
(Money)	Property Type
Violation Date	-Select- ▼
07/25/2023	
Property Category	☐ Vacant Property Inventory
-Select- ▼	

Custom Lists

No record(s) updated by expression.

LIEN TRACKING  Add  Delete  CSV Export
☐ ID(Number) Lien Type* Lien Date* Order Date Fine Recommended(Money) Total Fine Assessed(Money)* Suspended Amt(Money) Admin Fine(Money) Lien Amt(Money) Lien \$

Submit Cancel



NW 7-E

DR 16

ALLEY ALLEY

DR 5.5

LOWELL DR.

COLONIAL RD

ALLEY

ALLEY

ALLEY

078B2

2 CD

NW 6-E

2014-0047-A

2008-0133-A

0318053870

Lot # 140

Lot # 73

Lot # 74

7105

Lot # 77

Lot # 45

Lot # 37

Lot # 34

Lot # 31

Lot # 140

Lot # 139

Lot # 138

Lot # 137

Lot # 136

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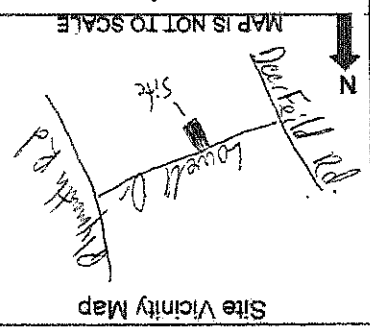
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Site Vicinity Map

MAP IS NOT TO SCALE

Zoning Map # 007882

Zoning OR S.5

Election District 03

Council District 002

Lot Area Acreage .137

Lot Square Footage 6000

Historic (Yes or No) NO

CBCA (Yes or No) NO

Flood Plain (Yes or No) NO

Utilities - Mark with (X)

Water is: Public ☒ Private ☐

Sewer is: Public ☒ Private ☐

Prior Hearing (Yes or No) NO

If (Yes) list Case Number(s)

and order result(s) below:

Violation Case Number(s)

CB2300442

Zoning Hearing Plan for Variance ☒ for Special Hearing _____ Mark Type Requested with (X)

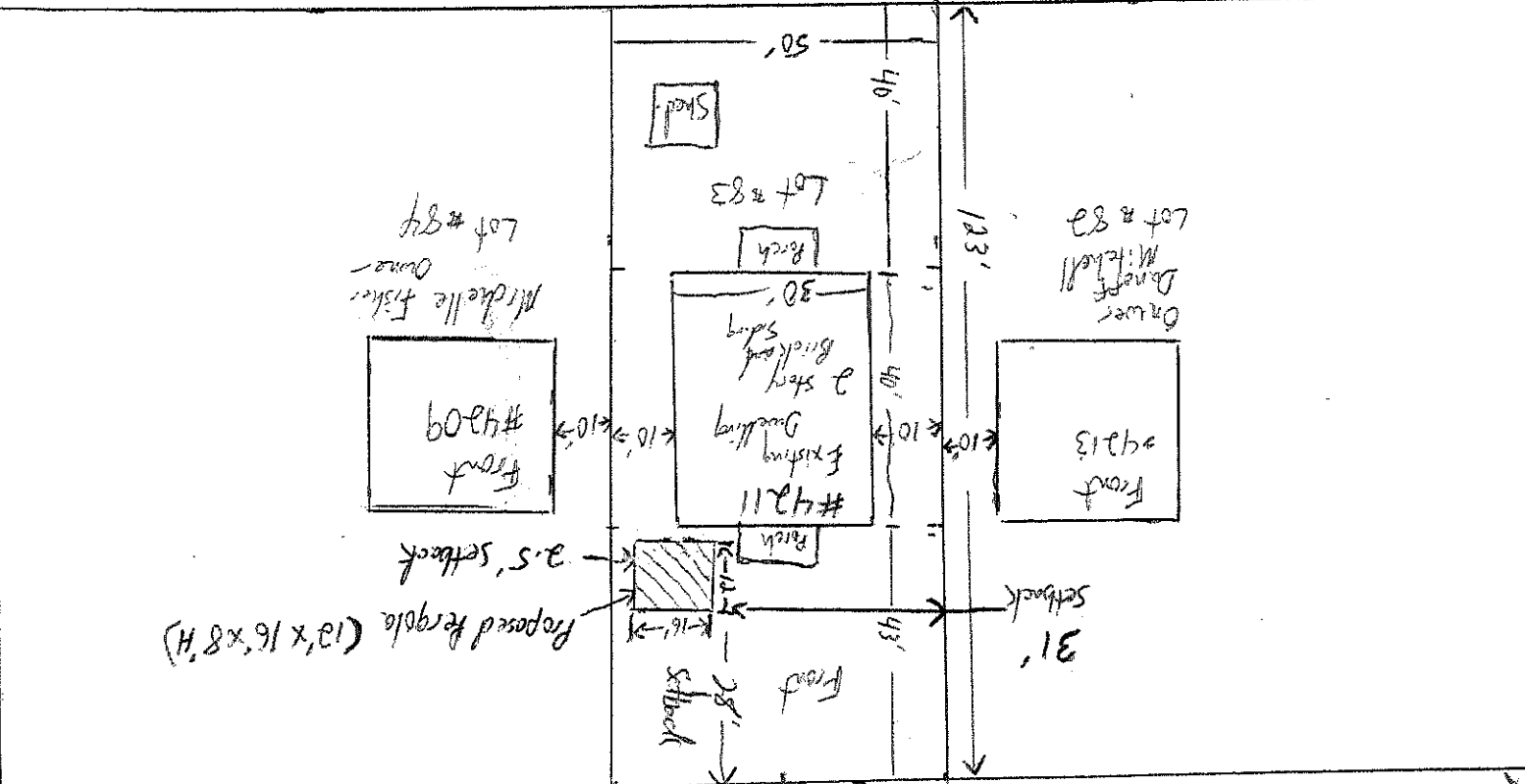
Address 4211 Lowell Dr. Owners(s) Name(s) Michael Anthony Jackson

Subdivision Name Colonial Village Lot # 83 Block # _____ Section # _____

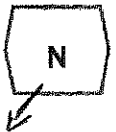
Plat Book # _____ Folio # _____ 10 Digit Tax # 0319000500 Deed Reference # 26892100669

Lowell Drive

425' to Deerfield Rd



Plan Drawn By Michael Jackson Date 8/28/23 Scale: 1 inch = 30 Feet



2023.0193.A